

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

AMEREN MISSOURI,

Defendant.

Case No. 4:11-CV-0077 RWS

STATUS UPDATE REGARDING PARTIES' EFFORTS TO MEET AND CONFER
ON MATTERS RELATED TO THE PARTIES' PRIVILEGE LOGS

Pursuant to this Court's Order dated September 9, 2014, Plaintiff the United States of America and Defendant Ameren Missouri file this joint status update regarding the parties' efforts to meet and confer on matters related to the parties' privilege logs, and state as follows:

Ameren's Challenges to Plaintiff's Privilege Log:

1. On September 4, 2014, Ameren filed its Motion to Compel Production of Documents from EPA's Privilege Logs (ECF No. 335). Ameren's motion seeks production of four sets of documents, identified in the motion as Categories 1-4.

2. On September 16, 2014, Ameren provided counsel for the United States a spreadsheet identifying all of the documents contained in Category 2 and Category 4 (which had been identified illustratively in Ameren's motion). The documents in Category 1 and Category 3 were identified in Ameren's brief in support of its motion.

3. The parties met and conferred via telephone conference and email on September 16 and September 29, 2014. On September 29, 2014, Plaintiff provided supplemental information to Ameren regarding the documents listed in Categories 1 and 4.

4. United States' Position on the Status: The United States does not believe that further discussions would be productive for the documents in Category 2. As defined by Ameren's motion, the parties' arguments with regard to the documents in Category 2 are ripe for adjudication by this Court. The United States is willing to meet and confer with Ameren regarding the supplemental information provided on September 29, 2014, as well as Ameren's challenges regarding the documents in Category 3. The United States suggests that the parties can update the court regarding the meet and confer process at the court's October 20 status conference.

5. Ameren's Position on the Status: Although the issues have been narrowed, disputes remain with respect to documents identified in each category of Ameren's motion and, absent some change of the positions staked by Plaintiff, the remaining disputes will be ripe for the Court's consideration. Ameren will set forth the remaining disputes in its reply brief, which is due this Friday, October 3, 2014.

Plaintiff's Challenges to Defendant's Privilege Log:

6. The parties met and conferred telephonically on September 10, 2014 and September 24, 2014 regarding the United States' challenges to certain entries on Ameren's privilege log. Based on these conferences, the United States has narrowed its challenges to roughly two dozen documents. The United States expects to file a motion to compel production of these documents today.

7. In addition to the specific privilege log challenges discussed in the paragraph above, the parties have also met and conferred regarding Ameren's position with respect to the production and logging of the following document category: communications between Ameren and third party electric utility industry associations. The United States expects to file a motion to compel production of these documents today.

Dated: September 30, 2014

Respectfully submitted,

FOR THE UNITED STATES:

SAM HIRSCH
Acting Assistant Attorney General
Environment and Natural Resources Division

s/Nigel B. Cooney
Nigel B. Cooney
Andrew C. Hanson
Bradford T. McLane
Elias L. Quinn
Trial Attorneys
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
Telephone: 202-514-3145
Facsimile: 202-616-6584
Nigel.cooney@usdoj.gov

FOR AMEREN MISSOURI:

s/Matthew B. Mock
Matthew B. Mock (pro hac vice)
Ronald S. Safer (pro hac vice)
Patricia Brown Holmes (pro hac vice)
Renee Cipriano (pro hac vice)
Steven J. Bonebrake (pro hac vice)
Schiff Hardin LLP
233 South Wacker Drive Suite 6600

Chicago, Illinois 60606
Phone: (312) 258-5500
Fax: (312) 258-5600

James J. Virtel
Armstrong Teasdale LLP
7700 Forsyth Boulevard Suite 1800
St. Louis, Missouri 63105
Phone: (314) 621-5070
Fax: (314) 612-2298
jvirtel@armstrongteasdale.com